SUPREME COURT, U. S.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1969

No. 592

JOHN R. FLOYD,

Petitioner,

vs.

CITY OF ROCKFORD, ILLINOIS,
a Municipal Corporation,

Respondent.

On Petition For Writ Of Certiorari To The Appellate Court Of Illinois, Second Judicial District

PETITION FOR REHEARING

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PETITION FOR REHEARING

To the Honorable, the Chief Justice and the Associate Justices of the Supreme Court of the United States:

Now comes John R. Floyd, the petitioner herein, and presents his petition for rehearing in the above entitled cause, upon the grounds, and for the reasons hereinafter set forth.

Question Not Previously Presented.

1. Whether a municipality has the power to enact or enforce an ordinance relating to driving while under the influence of intoxicating liquor.

Reasons For Granting Rehearing And Writ.

1. A municipality does not have the power to enact or enforce an ordinance relating to driving while under the influence of intoxicating liquor.

The provisions of the Uniform Act Regulating Traffic on Highways provide that the same shall be applicable and uniform throughout this State and all political subdivisions and municipalities therein and no local authority shall enact or enforce any ordinance, rule or regulation in conflict with the provisions of the Act. (Ill. Rev. Stat. 1965, Chap. 95½, Par. 122.) Local authorities may, however, adopt additional traffic regulations which are not in conflict with the provisions of the Act, but such regulations shall not be effective until signs giving notice thereof are posted upon or at the entrances to the highway or part thereof affected as may be most appropriate.

The provisions of the Act also provide that the same shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from:

1. Regulating the standing or parking of vehicles;

2. Regulating traffic by means of police officers or traffic control signals;

3. Regulating or prohibiting processions of assemblages on the highways:

4. Designating particular highways as one way highways and requiring that all vehicles thereon be moved in one specific direction;

5. Regulating the speed of vehicles in public parks subject to the limitations set forth in Section 50 of this Act;

6. Designating any highway as a through highway and requiring that all vehicles stop before entering or crossing the same or designating any intersection as a stop intersection or a yield right-of-way intersection and requiring all vehicles to stop or yield the right-of-way at one or more entrances to such intersections;

7. Restricting the use of highways as authorized in Article XVI of this Act;

8. Regulating or prohibiting the turning of vehicles or specified types of vehicles at intersections.

No ordinance or regulation enacted under subdivisions (1), (4), (5), (6), (7) or (8) of this section shall be effective until signs giving notice of such local traffic regulations are posted upon or at the entrances to the highway or part thereof affected as may be most appropriate.

Ill. Rev. Stat. 1965, Chap. 95½, Par. 123.

Clearly, the Illinois legislature did not intend for a municipality to regulate driving under the influence of intoxicating liquor by local ordinance or such power would

have been stated by the legislature. The dismissal of the charge by the trial court was correct and the judgment of the court below should be vacated.

There was a denial of due process of law.

Conclusion.

For the reasons set forth above, as well as those contained in the petition for writ of certiorari, the petitioner prays that this Court grant a rehearing of the order of denial, vacate that order, grant the petition and review the judgment and opinion below.

Respectfully submitted,

JOHN R. SNIVELY,
Counsel for Petitioner.

Certificate of Counsel.

I hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 58 (2).

JOHN R. SNIVELY,
Counsel for Petitioner.